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PTH

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Leonard J. Broggrebe

Serial No. 76/088,319

George J. Netter for Leonard J. Broggrebe.

Leigh A. Lowry, Trademark Examining Attorney, Law Office
109 (Ronald R. Sussman, Managing Attorney).

Before Simms, Hairston and Chapman, Administrative
Trademark Judges.

Opinion by Hairston, Administrative Trademark Judge:

Leonard J. Broggrebe seeks registration on the
Principal Register of the mark "A.D. 2000" for "golf
clubs."¹

The Trademark Examining Attorney has refused
registration under Trademark Act Section 2(d), 15 U.S.C.

¹ Serial No. 76/088,319, filed July 10, 2000, and asserting first
use and first use in commerce in October 1998.

§1052(d), on the ground that applicant's mark is confusingly similar to the mark shown below for "golf clubs."²



When the Examining Attorney made the refusal final, applicant appealed. Both applicant and the Examining Attorney filed briefs, but an oral hearing was not requested.³

Our determination under Section 2(d) is based on an analysis of all of the probative facts in evidence that are relevant to the factors bearing on the likelihood of confusion issue. In re E. I. duPont de Nemours and Co., 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). In any likelihood

² Registration No. 2,382,311 issued September 5, 2000. The registration contains the statement that "[t]he mark consists of the letters 'AD' in a stylized font." In addition, the letters "AD" have been disclaimed apart from the mark as shown. We note that the registration covers a number of goods and services, but the Examining Attorney has based the refusal only on the "golf clubs" listed therein.

³ This case was reassigned to a different Examining Attorney to prepare the appeal brief.

of confusion analysis, two key factors are the similarities between the marks and the relatedness of the goods.

Federated Foods, Inc. v. Fort Howard Paper Co., 544 F.2d 1098, 192 USPQ 24, 29 (CCPA 1976).

In this case, the goods (golf clubs) are identical. Thus, applicant and registrant's goods must be assumed to move in the same channels of trade (e.g., sporting goods stores and mass merchandisers) to the same class of purchasers, namely, the general public.

We focus our attention then on the involved marks. It is applicant's position that the marks are quite different in overall commercial impression because registrant's mark is highly stylized, and thus would not be perceived as the letters "AD" much less as a reference to the term "anno Domini" (A.D.). Further, applicant points out that because registrant's name is Allied Domecq PLC, to the extent that purchasers perceive registrant's mark as "AD," they will view it as an acronym for registrant's name and not as a reference to a date such as applicant's mark "A.D. 2000." Further, applicant argues that the inclusion of "2000" in his mark aids in distinguishing the marks.

The Examining Attorney, on the other hand, argues that because applicant seeks to register his mark in typed form, he is not limited in presentation and could display the

mark in the same stylization as registrant's mark.

Further, the Examining Attorney made of record excerpts from Webster's New Collegiate Dictionary (1979), which show that "A.D." and "AD" are abbreviations for "anno Domini," and argues that purchasers may also perceive registrant's mark as a "date source." Finally, the Examining Attorney argues that the mere inclusion of "2000" in applicant's mark is insufficient to distinguish the marks.

After careful consideration of the arguments and record in this case, we find that the marks are not sufficiently similar such that confusion is likely. In terms of appearance, as is obvious, the cited mark is not simply "AD" in typed or block letters. Rather, the registrant's mark depicts "AD" in a highly stylized font. Because of the highly stylized format of registrant's mark, we question whether the mark will even be perceived by purchasers as the letters "AD." The mark could just as easily be perceived as a fanciful depiction of the symbol "@" or simply the letter "A." Although the registration includes a statement that the mark consists of the letters "AD," purchasers are not aware of statements in registrations.

Further, while we recognize that applicant seeks registration of his mark in typed drawing form, this does

not mean that we must consider applicant's mark in all possible forms no matter how extensively stylized. Rather, we must consider all "reasonable manners" in which applicant's mark could be depicted. See *Jockey International Inc. v. Mallory & Church Corp.*, 25 USPQ2d 1233 (TTAB 1992). A reasonable manner of presentation would not include presenting the "A.D." portion of applicant's mark in the highly stylized format of registrant's mark. In sum, we find that the marks are not similar in appearance.

In terms of sound or pronunciation, we likewise find that the marks are not similar. As indicated, we are not convinced that registrant's highly stylized mark will even be perceived by purchasers as the letters "AD" such that it would be pronounced as "A" and "D". Also, applicant's mark contains the additional term "2000" which leads to differences in sound or pronunciation.

Finally, in terms of connotation, we recognize that "A.D." and "AD" are both abbreviations for "anno Domini." Applicant's mark, however, connotes the particular year 2000. With respect to registrant's mark, even if some purchasers perceive the mark as the letters "AD," it does not connote the particular year 2000, as does applicant's mark. Moreover, among those purchasers who are also

familiar with registrant, it is likely that the mark will be viewed as an acronym for registrant's name. Thus, the marks have different connotations.

In sum, we find on this ex parte record that the marks differ in terms of sound, appearance, connotation and overall commercial impression. Thus, notwithstanding the identity of the involved goods, confusion is not likely in this case.

Decision: The refusal to register under Section 2(d) of the Trademark Act is reversed.